REMARKS

The Applicants request reconsideration of the rejection.

Claims 34-83 are pending, including new claims 78-83.

Claims 34-51, 54-57, 60-63, 66-69 and 72-77 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ausubel, U.S. Patent No. 5,905,975 (Ausubel). The Applicants traverse as follows.

As previously argued, Ausubel teaches a Vickery auction that begins with a sealed bid from each bidder, and concludes with a price determined by looping through successive price parameters that do not coincide with the claimed auction price. In more detail, Ausubel's Vickery auction is for multiple dissimilar objects, and the price P_{ij} itself is not incremented but is updated in step 536 of Fig. 5B. Rather than the price being incremented, Ausubel increments the "clock", which appears to correspond to parameter t of step 530 of Fig. 5A.

On the other hand, the invention as now claimed in claim 34 is directed to an auction for a single kind of product or products. Whether the bidder can remain in the auction process is determined by repeating the steps of comparing the current auction price with the bid price for the product, and increasing the auction price by a predetermined value until the competitive state is resolved. In terms of claim 34, step (g), in response to a judgment that a competitive state occurs, the auction price is increased by a predetermined value and steps c) (judging whether a current auction price is equal to or lower than the price that the bidder thinks acceptable to pay, for each bidder), d) (determining each remaining bidder who has sent the price information by which it is judged that the current auction price is equal to or lower than the price in step c)), and e) (judging whether a competitive state occurs) are

repeated by the server computer. Thus, the amended claim is patentably distinguished from Ausubel at least in requiring the repeating of such steps with respect to the single kind of product or products.

Further, although the Examiner finds step c) of claim 34 in col. 16, lines 25-34 of Ausubel, this portion of Ausubel describes that "each bidder simultaneously indicates if she is "in"" and how "in" is concretely judged. Accordingly, while one might say that Ausubel shows step d) ("determining, in the server computer, each remaining bidder who has sent the price information by which it is judged that the current auction price is equal to or lower than the price in step c)"), one would not say that Ausubel shows a step of judging whether the current auction price is equal to or lower than the price that the bidder thinks acceptable to pay, for each bidder. Rather, Ausubel determines whether the bidder indicates that she is "in", that is, that she remains as a bidder, according to the flowcharts of Figs. 5A and 5B, by querying for user i if (bid for subset X) minus (bid for subset Y) is greater than or equal to Pt at step 526 of Fig. 5A, and by further querying for user j if (bid for S – subset Y) minus (bid for S – subset X) is greater than or equal to Pt at step 527 of Fig. 5A. Ausubel is silent on directly comparing the bid of user i with the price P_{ij} for user i, and is also silent on directly comparing the bid of user j with the price P_{ij} for user j.

Accordingly, Ausubel does not judge whether or not the bid of the user is under the current auction price, and therefore does not show the claimed step c) of "judging, in the server computer, whether a current auction price is equal to or lower than the price that the bidder thinks acceptable to pay, for each bidder." Ausubel therefore does not show the repeating of steps including step c), as required by step g).

In addition, to further clarify the patentability of the invention, step e) has been amended to recite that the judging step, performed in the server computer, judges whether a competitive state occurs or not, based on the amount of products to be auctioned and the sum of amounts of products that the bidders desire to purchase.

In this regard, the Examiner found the subject matter of amended step e), "whether the competitive state occurs or not is determined based on the amount of products to be auctioned and the sum of the amounts of the products that the bidders desire to purchase" in col. 25-26 of Ausubel, in rejecting claim 54. In fact, however, Ausubel discloses that "the auctioneer's system then executes the step 704 of calculating the maximized sum of v_k (T_k), where the summation is taken over all k from 1 to n, except for i, and the T_k are required to be disjoint subsets of Ω. Let v_{-i} (S) denote the maximized sum of v_k (T_k)" (col. 26, lines 28-32). In this patent, "v" means value, which is the price the user presents, but it is not the amount the user would like to obtain. Ausubel is silent on calculating the sum of amounts of products that the bidders desire to purchase, and further does not show to determine whether the competitive state occurs or not (i.e., whether the two bidders are still "in") based on the amount of products to be auctioned and the sum of amounts of products that the bidders desire to purchase.

Accordingly, Ausubel does not show the contents described in step e) of claim 34 (as amended).

Because independent claim 37 has been amended similarly, claim 37 is also patentable over the teachings of Ausubel. Further, dependent claims 35-36, 39, 50-51, 54-57, 60-61, and 74-75 are also patentable as being dependent thereon. Arguments for the separate patentability of these claims is reserved.

Claim 40 has been amended to require that the auction method determine a successful bidder for a single kind of product or products. Accordingly, claim 40 is patentable over Ausubel for reasons similar to those advanced above in distinguishing corresponding language in claim 34. Further, dependent claims 41-44 62-63, 66-67, 72-73, and 76 are also patentable as being dependent thereon. Arguments for the separate patentability of these claims is reserved.

Claim 45 has also been amended to require that the auction device determine a successful bidder for a single kind of product or products. Accordingly, claim 45 is patentable over Ausubel for reasons similar to those advanced above in distinguishing corresponding language in claim 34. Further, dependent claims 46-49 68-69, and 77 are also patentable as being dependent thereon. Arguments for the separate patentability of these claims is reserved.

Claims 52-53, 58-59, 64-65 and 70-71 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ausubel over in view of Fisher, U.S. Patent No. 5,865,896 (Fisher). Each of these claims is a dependent claim and inherits the patentable features of the independent claims argued above. Therefore, for brevity, the separate patentability of these claims will not be argued at this time, although the Applicants reserve the right to the full scope of each claim.

New claims 78-83 are also dependent claims that inherit the patentable features of their respective independent claims, and are therefore also patentable.

New claims 78-81 recite an embodiment of displaying the transaction process during the auction. An example of support is shown in Fig. 12, box 917.

Ausubel is distinguished, showing the results of subauctions I to VI in tables 1 to 3 and the auction result in the case of three bidders in table 4 on cols. 38-41, but

not the display of the tables, and not the display of the transaction process during the competitive state just before the competitive state is solved. Likewise, Fisher fails to show to present the bidding status during the competitive state to the bidders. Accordingly, neither Ausubel nor Fisher shows the contents of claims 78-81.

Claims 82 and 83 describe the priority determined when plural bidders present the same order information (an example of support is found on page 32, lines 3-9 of the present specification).

Ausubel, however, describes the algorithm of the Vickery auction but does not describe the matter at the time when the bidder participates in the auction. Further, Fisher shows another bidder participating in the auction with a higher price after one bidder participates in the auction, but does not show that the earlier-participating bidder takes priority when the earlier-participating bidder and the later-participating bidder present the same bidding information. Accordingly, neither Ausubel nor Fisher show the features of claims 82 and 83.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to

the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. ASA-672-02).

Respectfully submitted,

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